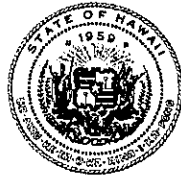


DAVID Y. IGE  
GOVERNOR  
STATE OF HAWAII

SHAN S. TSUTSUI  
LT. GOVERNOR  
STATE OF HAWAII



JOBIE M. K. MASAGATANI  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

WILLIAM J. AILA, JR.  
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879  
HONOLULU, HAWAII 96805

February 2, 2017

**Via Electronic Mail**

The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Wireline Competition Bureau Seeks Comment On The 2005 Waiver That Allows Sandwich Isles to Be Treated As An Incumbent Local Exchange Carrier For Purposes of receiving High-Cost Universal Service Support; Public Notice (DA 16-1421, *rel.* December 20, 2016;**

**WC Docket No. 10-90; CC Docket No. 96-45.**

Dear Chairman Pai:

On behalf of the Department of Hawaiian Home Lands, State of Hawaii, ("DHHL"), I am responding to the Public Notice requesting that DHHL provide its views on the potential termination of the study area waiver granted to Sandwich Isles Communications, Inc. ("Sandwich Isles"). We understand that if the waiver is terminated, Sandwich Isles would be ineligible to receive Universal Service Fund ("USF") support to provide broadband and other telecommunications services to residents of the home lands.

DHHL has the unique responsibility of managing approximately 203,000 acres of State land ("Hawaiian home lands") for the benefit of native Hawaiians under the Hawaiian Homes Commission Act, 1920, as amended ("HHCA").<sup>1</sup> In the context of telecommunications, DHHL's overriding concern is that native Hawaiian residents of the home lands continue to receive broadband services and other telecommunications services reasonably comparable to those in urban areas in terms of price, quality and data rates. We greatly appreciate that the FCC has adopted this goal as its overriding public interest objective in this proceeding and we are committed to assisting the FCC in finding a viable resolution for the benefit of native Hawaiians.

We are deeply troubled by the FCC's findings that Sandwich Isles engaged in unlawful practices to secure excessive and unwarranted USF support in violation of the FCC's rules. DHHL acknowledges the FCC's obligation to pursue appropriate remedial and enforcement action necessary to ensure that USF support is deployed efficiently for its intended purposes. At the same time, DHHL asks that care be taken so that native Hawaiian homesteaders and other subscribers located on Hawaiian home lands are not inadvertently harmed in the process. DHHL maintains that it is important that in dealing with Sandwich

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<sup>1</sup> The HHCA was enacted by Congress in 1921 when Hawaii was a territory of the United States. The HHCA was later incorporated as a part of the Hawaii state constitution as a condition of statehood.

Isles, the FCC pursue remedial actions and exercise its enforcement authority in a manner that ensures the residents of the home lands obtain broadband services at rates, terms and conditions reasonably comparable to those available in urban areas.

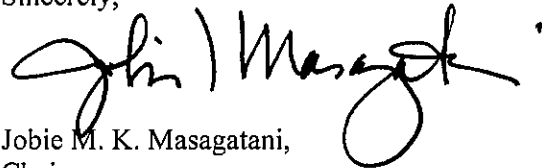
DHHL believes that any wrongdoing attributable to Sandwich Isles' ownership and management should be addressed apart from and without diminishing USF support to make available broadband and other telecommunications services to the home land residents. Whatever decisions the FCC adopts to address such wrongdoing should not undermine the availability of vital USF support for the residents of the home lands. While competition from more than one provider may be viable in limited areas of the home lands, we believe that for the foreseeable future USF support will be needed in substantial areas of the home lands to ensure that native Hawaiians have access to "advanced telecommunications and information services."

DHHL is committed to working with the FCC in finding a workable path to ensuring that USF funds allocated for Hawaiian home lands are not subject to waste, fraud and abuse. We note that in 1995, DHHL granted an "exclusive" license "in perpetuity" to Waimana Enterprises, Inc., the parent company of Sandwich Isles, to provide telecommunications services to the Hawaiian home lands.<sup>2</sup> Pursuant to a partial assignment of that license in January 1996, Sandwich Isles provides telecommunications services to the home lands. We now seek guidance from the FCC on whether the terms of the license may implicate Section 253 (a) of the Communications Act, 47 USC § 253(a), and act as a potential barrier to entry by another provider capable of reasonably utilizing USF support to provide "21<sup>st</sup> Century" services to the Hawaiian home lands.

In closing, I again want to emphasize that DHHL seeks a resolution that will best serve native Hawaiians and that residents of the home lands continue to receive service consistent with the Commission's policies and objectives underlying its commitment to Universal Service.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jobie M. K. Masagatani". The signature is fluid and cursive, with a large loop at the end.

Jobie M. K. Masagatani,  
Chairman  
Hawaiian Homes Commission

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<sup>2</sup> DHHL has sole jurisdiction over access to, and the uses of, Hawaiian home lands, but does not have regulatory authority over telecommunications carriers.